

PTO/SB/21 (08-03)

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|---|----------------------|------------------------|--------------|
| <b>TRANSMITTAL FORM</b><br><br>(to be used for all correspondence after initial filing) | Application Number   | 10/729,622             |              |
|   | Filing Date          | December 5, 2003       |              |
|   | First Named Inventor | Mark E. DEEM           |              |
|   | Art Unit             | Not Yet Assigned       |              |
|   | Examiner Name        | Not Yet Assigned       |              |
| Total Number of Pages in This Submission  | 12 + 1 ref.          | Attorney Docket Number | 514362000203 |

**ENCLOSURES (Check all that apply)**

|  |   |  |
|--|---|--|
| <input type="checkbox"/> Fee Transmittal Form                                  | <input type="checkbox"/> Drawing(s)   | <input type="checkbox"/> After Allowance Communication to Group                            |
| <input type="checkbox"/> Fee Attached  | <input type="checkbox"/> Licensing-related Papers                                       | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences        |
| <input type="checkbox"/> Amendment/Reply                                       | <input type="checkbox"/> Petition   | <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final   | <input type="checkbox"/> Petition to Convert to a Provisional Application               | <input type="checkbox"/> Proprietary Information   |
| <input type="checkbox"/> Affidavits/declaration(s)                             | <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address | <input type="checkbox"/> Status Letter   |
| <input type="checkbox"/> Extension of Time Request                             | <input type="checkbox"/> Terminal Disclaimer  | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):            |
| <input type="checkbox"/> Express Abandonment Request                           | <input type="checkbox"/> Request for Refund   | 1. Form PTO-1449 + copy (8 pages)  |
| <input checked="" type="checkbox"/> Information Disclosure Statement (3 pages) | <input type="checkbox"/> CD, Number of CD(s) _____                                      | 2. One (1) reference   |
| <input type="checkbox"/> Certified Copy of Priority Document(s)                |   | 3. Return postcard   |
| <input type="checkbox"/> Response to Missing Parts/Incomplete Application      |   |  |
| <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53   |   |  |
| <b>Remarks</b>   |   |  |

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

|                         |  |
|-------------------------|--|
| Firm or Individual name | MORRISON & FOERSTER LLP (Customer No. 25226)<br>Johney U. Han - 45,565 |
| Signature               |  |
| Date                    | January 8, 2004  |

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

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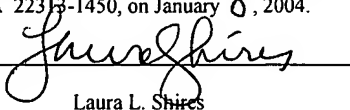
Signature: (Laura L. Shires)



PATENT  
Docket No. 514362000203

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Laura L. Shires

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Mark E. DEEM et al.

Serial No.: 10/729,622

Filing Date: December 5, 2003

For: OBESITY TREATMENT TOOLS AND  
METHODS

Examiner: Not Yet Assigned

Group Art Unit: Not Yet Assigned

**INFORMATION DISCLOSURE  
STATEMENT UNDER 37 C.F.R. § 1.97 & 1.98**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

Pursuant to 37 C.F.R. § 1.97 and § 1.98, Applicants submit for consideration in the above-identified application the documents listed on the attached Form PTO-1449. Copies of the documents numbered 1-61, 63-69 and 71-75 were previously submitted in an Information Disclosure Statement and/or Office Action, directed to the related application Serial Number 10/402,061, filed March 27, 2003, and, accordingly, copies are not included herewith. This protocol conforms with 37 C.F.R. § 1.98(d) and M.P.E.P. 609(A)(2). Also, pursuant to the USPTO notice dated July 11, 2003, waiving the requirement under 37 C.F.R. § 1.98 (a)(2)(i) to

provide copies of U.S. Patents and U.S. Published Applications, a copy of the reference numbered 62 is not submitted. A copy of the reference numbered 70 is submitted herewith. The Examiner is requested to make these documents of record in the application.

This Information Disclosure Statement is submitted:

- ☐ With the application; accordingly, no fee or separate requirements are required.
- ☐ Before the mailing of a first Office Action after the filing of a Request for Continued Examination under § 1.114. However, if applicable, a certification under 37 C.F.R. § 1.97(e)(1) has been provided.
- ☒ Within three months of the application filing date or before mailing of a first Office Action on the merits; accordingly, no fee or separate requirements are required. However, if applicable, a certification under 37 C.F.R. § 1.97(e)(1) has been provided.
- ☐ After receipt of a first Office Action on the merits but before mailing of a final Office Action or Notice of Allowance.
  - ☐ A fee is required. A check in the amount of \_\_\_ is enclosed.
  - ☐ A fee is required. Accordingly, a Fee Transmittal form (PTO/SB/17) is attached to this submission in duplicate.
  - ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above; accordingly; no fee is believed to be due.
- ☐ After mailing of a final Office Action or Notice of Allowance, but before payment of the issue fee.
  - ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above and a check in the amount of \_\_\_ is enclosed.
  - ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above and a Fee Transmittal form (PTO/SB/17 is attached to this submission in duplicate.)

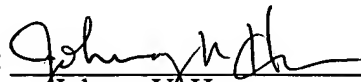
Applicants would appreciate the Examiner initialing and returning the Form PTO-1449, indicating that the information has been considered and made of record herein.

The information contained in this Information Disclosure Statement under 37 C.F.R. § 1.97 and § 1.98 is not to be construed as a representation that: (i) a complete search has been made; (ii) additional information material to the examination of this application does not exist; (iii) the information, protocols, results and the like reported by third parties are accurate or enabling; or (iv) the above information constitutes prior art to the subject invention.

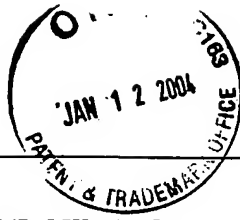
In the unlikely event that the transmittal form is separated from this document and the Patent Office determines that an extension and/or other relief (such as payment of a fee under 37 C.F.R. § 1.17(p)) is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing **514362000203**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: January 8, 2004

Respectfully submitted,

By:   
Johny U. Han  
Registration No. 45,565

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Form PTO-1449

INFORMATION DISCLOSURE CITATION  
IN AN APPLICATION

(Use several sheets if necessary)

Docket Number 514362000203

Application Number 10/729,622

Applicant

Mark E. DEEM et al.

Filing Date December 5, 2003

Group Art Unit Not Yet Assigned

Mailing Date January 8, 2004

## U.S. PATENT DOCUMENTS

| Examiner<br>Initials | Ref.<br>No. | Date       | Document No. | Name               | Class | Subclass | Filing Date If<br>Appropriate |
|----------------------|-------------|------------|--------------|--------------------|-------|----------|-------------------------------|
|                      | 1.          | 09/22/2000 | 60/234,360   | Schurr             |       |          |                               |
|                      | 2.          | 04/04/2002 | 2002/0040226 | Laufer et al.      |       |          |                               |
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EXAMINER:

DATE CONSIDERED:

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| Examiner<br>Initials | Ref.<br>No. | Date       | Document No. | Country | Class | Subclass | Translation |    |
|----------------------|-------------|------------|--------------|---------|-------|----------|-------------|----|
|                      |             |            |              |         |       |          | YES         | NO |
|                      | 63.         | 03/19/1986 | EP 0 174 843 | Europe  |       |          |             |    |
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(including author, title, Date, Pertinent Pages, Etc.)

| Examiner<br>Initials | Ref.<br>No. | Title   |
|----------------------|-------------|---|
|                      | 72.         | Cummings, D.E. et al. (2002). "Plasma Ghrelin Levels After Diet-Induced Weight Loss or Gastric Bypass Surgery," <i>N. Engl. J. Med.</i> 346(21):1623-1630.  |
|                      | 73.         | Davenport, H.W. (1971). <i>Physiology of the Digestive Tract</i> , Third Edition, Year Book Medical Publishers, Inc.: Chicago, IL, pp. 9-10 (Table of Contents Only.)   |
|                      | 74.         | DeMeester, T.R. (2002). "Evolving Concepts of Reflux: The Ups and Downs of the LES," <i>Can. J. Gastroenterol</i> 16(5):327-331. DeMeester, T.R. (2002). "Evolving Concepts of Reflux: The Ups and Downs of the LES," <i>Can. J. Gastroenterol</i> 16(5):327-331. |

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75.

Villar, H.V. et al. (1981). "Mechanisms of Satiety and Gastric Emptying After Gastric Partitioning and Bypass," *Surgery* 90(2):229-236.

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